

ESTTA Tracking number: **ESTTA283549**

Filing date: **05/13/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	SUSINO UMBRELLA CO., LTD.
Granted to Date of previous extension	05/13/2009
Address	Jin'ou Industrial ParkDongshi Town Jinjiang, FJ 362271 CHINA
Attorney information	Scott Q Vidas Vidas, Arrett & Steinkraus, P.A. 6640 Shady Oak Road Suite 400 Eden Prairie, MN 55344-7834 UNITED STATES svidas@vaslaw.com Phone:9525633003

Applicant Information

Application No	77355544	Publication date	01/13/2009
Opposition Filing Date	05/13/2009	Opposition Period Ends	05/13/2009
Applicant	Susino USA, LLC PO Box 1013 Loxahatchee, FL 33470 UNITED STATES		

Goods/Services Affected by Opposition

Class 018. First Use: 2007/06/01 First Use In Commerce: 2007/12/10 All goods and services in the class are opposed, namely: Beach umbrellas; Beach umbrellas; Frames for umbrellas; Golf umbrellas; Metal parts of umbrellas; Parasols; Patio umbrellas; Table umbrellas; Telescopic umbrellas; Umbrella covers; Umbrella frames; Umbrella handles; Umbrella rings; Umbrellas; Umbrellas and parasols; Umbrellas and their parts; Umbrellas for children

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	SUSINO		

Goods/Services	Umbrellas
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Attachments	14527US01_NoticeOpposition_20090513.pdf (5 pages)(75579 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Scott Q. Vidas/
Name	Scott Q Vidas
Date	05/13/2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of App. Ser. No. 77/355,544)	
)	
SUSINO UMBRELLA CO., LTD.)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
SUSINO USA LLC,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Opposer, Susino Umbrella Co., Ltd., ("Susino Umbrella "), a Chinese corporation having offices at Jin' ou Industrial Park Dongshi Town, Jinjiang, FJ 362271 CHINA, believes that it will be damaged by the registration of Application Serial No. 77/355,544, and hereby opposes registration of the same under 15 U.S.C. §§ 1052(d) and 1063.

1. On December 19, 2007, Susino USA, LLC ("Applicant") filed an application, Application Serial No. 77/355,544, for the designation SUSINO (stylized) for "beach umbrellas, frames for umbrellas, golf umbrellas, metal parts of umbrellas, parasols, patio umbrellas, table umbrellas, telescopic umbrellas, umbrella covers, umbrella frames, umbrella handles, umbrella rings" in International Class 18 (the "Application").

2. The United States Patent and Trademark Office published the Application for opposition in the *Official Gazette* on January 13, 2009, allowing time to oppose said application up to and including February 13, 2009. On January 19, 2009, Susino Umbrella filed a 30 Day Request for Extension of Time to Oppose until March 13, 2009. The Trademark Trial and Appeal Board granted Susino Umbrella's Request for Extension of Time. On March 5, 2009, Susino Umbrella filed a 60 Day Request for

Extension of Time to Oppose until May 13, 2009. The Trademark Trial and Appeal Board granted Susino Umbrella's Request for Extension of Time. Susino Umbrella has timely filed this Notice of Opposition.

3. Susino Umbrella owns the mark SUSINO and associated nationwide common law rights in the trademark SUSINO and had filed Application Serial No. 79/001855 under 66A, for SUSINO plus design and Characters for "Umbrellas, umbrella rings, frames for umbrellas or parasols, umbrella sticks, umbrella covers, umbrella handles, parasols" in International Class 18 under its previous name, Jinjiang Hengshun Umbrella Company, Ltd. (although the translator filing mis-translated it to "Jinjiang Hengshun Gingham Company, Ltd. at the same address). The usage claimed by Applicant is by selling umbrellas made and marked SUSINO by Susino Umbrella in China which were sent to Applicant for distribution and sale in the United States. Applicant was merely a middleman that received Susino Umbrella product. The catalog specimen submitted by Applicant is Susino Umbrella's catalog and Applicant knew or should have known that the specimen it submitted was not its own.

4. As a result, Susino Umbrella's rights in the trademark SUSINO have priority over the Application at issue based on Susino Umbrella's prior use of the mark SUSINO. Susino Umbrella's use of the mark SUSINO for "umbrellas" began prior to Applicant's December 19, 2007, filing date for the Application and its alleged dates of use of June 1, 2007 and in commerce of December 10, 2007.

5. Applicant's application for, and intended use of, the designation SUSINO for the goods identified in the Application so resembles Susino Umbrella's nationwide common law rights in the trademark and pending application to register SUSINO as to be likely to cause confusion, mistake, or deception under § 2(d) of the Trademark Act, 15 U.S. C. § 1052(d).

6. The designation SUSINO in the Application is identical to Susino Umbrella's prior rights in the trademark SUSINO. In fact, Applicant was the United States Distributor and Dealer for Susino Umbrella selling its umbrellas bearing the SUSINO mark in the United States. There is no agreement between Applicant and Susino Umbrella in which Applicant would be provided any rights to the SUSINO trademark of Susino Umbrella. Susino Umbrella is the manufacturer and labels the umbrellas with the SUSINO mark and Applicant merely sold the goods for Susino Umbrella in the United States.

7. Susino Umbrella is entitled to protection of the goodwill in its SUSINO trademark against confusingly similar marks.

8. If the Application is allowed to register, purchasers of umbrellas sold under the designation SUSINO are likely to be confused into believing that Applicant's goods originated or are connected with, or are sponsored, licensed, endorsed or approved by, Susino Umbrella or its SUSINO trademark or goods, all to Susino Umbrella's detriment. Registration of the designation SUSINO by Applicant would allow Applicant to wrongfully appropriate Susino Umbrella's valuable goodwill and reputation associated with its SUSINO trademark.

9. If the Application is allowed to register, Susino Umbrella would likely be prevented from obtaining a registration to register the trademark SUSINO for "umbrellas", despite its priority of use of the trademark SUSINO.

10. As a result of the likelihood of confusion that would be caused by Applicant's proposed registration and use of the designation SUSINO, Susino Umbrella believes that issuance of a registration based on the Application will result in damage and injury to Susino Umbrella. Applicant's registration of the designation SUSINO would allow Applicant an unqualified right (a) to wrongfully appropriate Susino Umbrella's goodwill and reputation associated with the mark SUSINO; (b) to benefit from the likely confusion among purchasers as to the source or sponsorship of SUSINO goods; and (c) to harm Susino Umbrella's goodwill and reputation associated with the mark SUSINO by allowing any fault with or objection to Applicant's goods to reflect adversely upon Susino Umbrella.

WHEREFORE, Susino Umbrella prays that the Board sustain this Notice of Opposition and refuse to register Application Serial No. 77/355,544.

Susino Umbrella hereby appoints Scott Q. Vidas, Richard A. Arrett and Vidas, Arrett & Steinkraus, P.A., 6640 Shady Oak Road, Suite 400, Eden Prairie, MN 55344-7834, as its representative upon whom notices and process in proceedings affecting this proceeding may be served.

Respectfully submitted,
SUSINO UMBRELLA CO., LTD.

By: /s/ /Scott Q. Vidas/
One of its Attorneys

Dated: May 13, 2009

Scott Q. Vidas
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **NOTICE OF OPPOSITION** to be served upon:

SUSINO USA, LLC
P.O. Box 1013
Loxahatchee, Florida 33470-1013

by placing same in an envelope, properly sealed and addressed, with postage prepaid and depositing same with the United States Postal Service on this 13th day of May, 2009.

/s/ /Scott Q. Vidas/
Scott Q. Vidas

Filed with the TTAB via
ESSTA on May 13, 2009